

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SHEILA CARTER,

Plaintiff,

v.

ESSEX COUNTY HOSPITAL CENTER,

Defendant.

Civil Action No. 19-21063 (SDW)(AME)

WHEREAS OPINION

February 7, 2023

THIS MATTER having come before this Court upon Defendant Essex County Hospital Center’s (“Defendant”) filing of a Motion to Dismiss Plaintiff Sheila Carter’s (“Plaintiff”) Complaint, (D.E. 41), and this Court having reviewed the Complaint, (D.E. 1), and Defendant’s Motion to Dismiss; and

WHEREAS Plaintiff’s counsel filed a Suggestion of Death in which it notified “the Court and counsel for Defendant Essex County Hospital Center that Plaintiff Sheila Carter died on April 21, 2022,” (D.E. 39); and

WHEREAS Federal Rule of Civil Procedure (“Rule”) 25 provides:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent’s successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

FED. R. CIV. P. 25(a)(1); and

WHEREAS a motion for substitution was not filed by any party or Plaintiff's successor within the 90-day timeframe provided by Rule 25;¹ therefore,

Defendant's Motion to Dismiss, (D.E. 41), is **GRANTED with prejudice**. An appropriate Order follows.

/s/ Susan D. Wigenton
United States District Judge

Orig: Clerk
cc: André M. Espinosa, U.S.M.J.
Parties

¹ Plaintiff's counsel also did not submit an opposition to Defendant's Motion to Dismiss.